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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/627,791

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Steve Bigus

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FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CA 90045

EXAMINER

PREBILIC, PAUL B

ART UNIT

PAPER NUMBER

3774

MAIL DATE

DELIVERY MODE

12/02/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/627,791	Applicant(s) BIGUS ET AL.	
	Examiner Paul B. Prebilic	Art Unit 3774	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5-11 and 20-39 is/are pending in the application.
- 4a) Of the above claim(s) 8-10,22,23 and 31-34 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,5-7,11,20,21,24-30 and 35-39 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 22, 2008 has been entered.

It is noted that the Applicant failed to clearly point out where there was support for the new limitations and new claimed subject matter from the original specification. This was requested in the "Conclusion" section of the previous Office action; see the first full paragraph on page 7 of the May 22, 2008 Office Action. In addition, the Applicant failed to provide a list of any copending applications that claim similar subject matter; see the second full paragraph on page 7 of the May 22, 2008 Office Action. Therefore, the Applicant is respectfully requested to provide this information and provide support for any new amendments in response to this Office action.

Election/Restrictions

Claims 8-10, 22, 23, and 31-34 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on January 19, 2006.

Claim Rejections - 35 USC § 102

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 6, 11, 14-16, 29, 30, 35, and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Strecker et al (US 5,405,378). Strecker anticipates the claim language where the catheter as claimed is the catheter (11) of Strecker, the endoprosthesis as claimed is the prosthesis (80) of Strecker, and the bioabsorbable material as claimed is the thread (81) of Strecker; the thread (81) is over parts of the other thread (82) by being knitted therewith; see Figure 9 and column 10, lines 10-24.

Regarding claim 25, self-expansion occurs when the thread (81) fails.

Claims 1, 5-7, 11, 20, 21, 24-30, and 35-39 are rejected under 35 U.S.C. 102(e) as being anticipated by Kocur (US 6,350,277). Kocur anticipates the claim language where the catheter as claimed is the catheter of Kocur (see column 9, lines 44-53), the self-expandable endoprosthesis as claimed is the self-expanding stent (110) of Kocur (see column 4, lines 3-13), and the bioabsorbable material as claimed is the retaining segment of Kocur (see column 2, lines 1-9).

With regard to claim 5, the Applicant is directed to Figures 7 and 8 and column 4, line 58 to column 5, line 7. Heat bonding is also taught by Kocur; see Figures 5a to 5c,

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10, 11d, and 13a to 13d as well as column 4, line 18 et seq., column 6, line 5 et seq., and column 5, line 18 et seq.

Regarding claim 6, the Applicant is directed to see Figures 1, 3, 4a, and 4b.

Regarding claim 7, the bands of Figure 5a and 5b can be near or at the ends of the stent such that the greatest (and the least) thickness would be at the ends as claimed.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. The new Kocur rejection points out where a support is for each of the features listed on page 10 of the September 22, 2008 response.

Conclusion

Applicant should specifically point out the support for any amendments made to the disclosure, including the claims (MPEP 714.02 and 2163.06). Due to the procedure outlined in MPEP 2163.06 for interpreting claims, it is noted that other art may be applicable under 35 USC 102 or 35 USC 103(a) once the aforementioned issue(s) is/are addressed.

Applicant is respectfully requested to provide a list of all copending applications that set forth similar subject matter to the present claims. A copy of such copending claims is respectfully requested in response to this Office action if the application is not stored in image format (i.e. the IFW system) or published.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Paul B. Prebilic whose telephone number is (571) 272-4758. He can normally be reached on 6:30-5:00 M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Isabella can be reached on 571-272-4749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Paul Prebilic/
Paul Prebilic
Primary Examiner
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